

Attachment to Independent Case Review Report  
For CDRU # 6358 Case file # 95-252377.

Material Examiner Malone (RO)

Remarks:

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CRM - 7529

# INDEPENDENT CASE REVIEW REPORT

Independent Review conducted by: Steve Robertson

Area(s) of Expertise: Hair and Fiber

Review commenced at: 8:00 AM (Time), 09/17/1999 (Date).

File #: 95-252377

Laboratory #(s): 20608093

21025077

## Examiner(s) & Symbols

	Reviewed	Not Reviewed		Reviewed	Not Reviewed
<u>RQ</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u></u>	<input type="checkbox"/>	<input type="checkbox"/>
<u></u>	<input type="checkbox"/>	<input type="checkbox"/>	<u></u>	<input type="checkbox"/>	<input type="checkbox"/>
<u></u>	<input type="checkbox"/>	<input type="checkbox"/>	<u></u>	<input type="checkbox"/>	<input type="checkbox"/>

## Materials Reviewed

Trial testimony transcript(s) of: Michael Malone

Testimony Date(s): 10-26-83 Pages: 11-73

## Laboratory Report(s):

Laboratory Number: 20608093 Date: Sept 17, 1982

Laboratory Number: 21025077 Date: Dec 14, 1982

Laboratory Number:  Date:

Examiner Bench Notes of: RQ and unknown technician

Laboratory Number: 20608093

21025077

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Initials: SRR

**CRM - 7530**

Was any other material reviewed? ☒ Yes ☐ No

If yes, please identify and/or describe the material: Submitting agency letter (not dated), court reported log of case IJUS83-301CR dated 10-25-83. On 3-12-2001, the transcript of Malone's testimony was provided for review.

### Results of Review

File #: 95-252377 Item or Specimen # Reviewed: Q1-Q6, Q99-Q27, Q31-Q42, K1,

K2, K4-K11, Q43-Q72, K13-K14

#### Review of Laboratory Report(s) and Bench Notes:

**Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses**

- 1) Did the examiner perform the appropriate tests in a scientifically acceptable manner, based on the methods, protocols, and analytic techniques available at the time of the original examination(s)?  
☐ Yes ☐ No ☒ Unable to Determine
- 2) Are the examination results set forth in the laboratory report(s) supported and adequately documented in the bench notes?  
☐ Yes ☒ No ☐ Unable to Determine

#### Review of Testimony:

**Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses**

- ☐ Transcript not available. (Not available on 9-17-99; available and reviewed on 3-12-2001)
- 3) Testimony consistent with the laboratory report(s)? ☐ Yes ☒ No ☐ Unable to Determine
  - 4) Testimony consistent with the bench notes? ☒ Yes ☐ No ☐ Unable to Determine
  - 5) Testimony within bounds of examiner's expertise? ☐ Yes ☒ No ☐ Unable to Determine

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Initials: SWL

### Comments

(Set forth by above question #, if applicable.  
Use "Additional Comments" Sheet, if needed)

File #: 95-252377

#1: There is insufficient documentation to determine if the hair comparison was performed in a scientifically acceptable manner.

#2: The results are not adequately documented in the notes. The notes are not dated, are in pencil and are not initialed by the technician(s). Some hair were deemed unsuitable for comparison with no reason or explanation

Review completed at: 5:00 PM (Time), 03/15/2001 (Date)

Total time spent conducting review (to nearest 1/4 hour): 5:00 hours

I hereby certify that I conducted this review in an independent, unbiased manner and that the results of my review are fully documented on this report consisting of a total of 4 pages.

Steve Roberts  
(Signature)

March 15, 2001

(Date)

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Initials:

SW

Additional Comments  
(Set forth by question #, if applicable)

File #: 95-252377

#2 (continued):

given. The examiner did not initial some of his notes. Some abbreviations are used that are difficult to interpret.

The presence of unidentified head and pubic hair was not reported (see items Q5, Q10, Q22).

The court reporter's log was very difficult to read. The transcript of Malone should be obtained for review.

The transcript was provided for review on March 12, 2001. See comments below.

#3: Malone testifies that hair that does not match either of the victims or either of the suspects was recovered from the evidence. This fact is in the bench notes, but is not stated in the laboratory report.

#5: Malone testified that, based on literature and his own personal experience, if he matched a hair to a person, the chance of finding another individual with the same hair is about one in five thousand. The 1 in 5000 chance that this evidence hair came from some other person besides the suspect is not supported in the literature.

Malone's claim of examining hair from over 10,000 individuals and only being unable to tell the hair apart two times leads him to the 1 in 5000 chance the hair could be from another person besides the suspect. This is not the same as comparing the hair from all those 10,000 people to each other to determine how many would match another.

This report is a compilation of the 9/17/99 report and the 3/12/01 report.

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Initials: SM